

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LUCRE, INC.,

Plaintiff,

v.

VERIZON NORTH INC. and
CONTEL OF THE SOUTH, INC.
d/b/a VERIZON NORTH SYSTEMS,

Defendants.

Case No. 1:07-CV-120

Hon. Richard Alan Enslen

ORDER

Plaintiff Lucre, Inc., through counsel, has moved for an enlargement of time to file a reply brief regarding a dispositive motion (Plaintiff's Motion to Vacate Arbitration Award). The Motion for Enlargement of the reply filing period is untimely, but its late filing is due to "excusable neglect"—the difficulties of Plaintiff's counsel in returning to active work following a heart attack in February 2007. *See* Fed. R. Civ. P. 6(b)(2); *see also Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 388 (1993) (stating that parallel rule language "plainly contemplated that the courts would be permitted, where appropriate, to accept late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party's control."); *In re Orthopedic Bone Screw Prods. Liab. Litig.*, 246 F.3d 315, 329 (3d Cir. 2001) (holding that consideration of *Pioneer* factors warranted lengthy enlargement); *Lovelace v. Lee*, 472 F.3d 174, 204 (4th Cir. 2006) (affirming order granting enlargement); *Soliz v. Bennett*, 150 Fed. Appx. 282, 284 (5th Cir. Sept. 20, 2005) (same).

Because enlargement is properly granted, there is no basis to strike the untimely filing. Further, the requests of the parties for sanctions against one another are improper and will be denied.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Motion for Enlargement of Time (contained in Dkt. No. 14) is **GRANTED** to the extent that the Reply filed on February 28, 2007 is received belatedly due to enlargement under Rule 6(b), but the request for attorney fees is **DENIED**.

IT IS FURTHER ORDERED that Defendants Verizon North, Inc. and Contel of the South, Inc.'s Motion to Strike (Dkt. No. 13) is **DENIED**.

DATED in Kalamazoo, MI:
April 16, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE